

§ 5.21

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(i) The application will be rejected by order of the Commission, if the Commission determines that it is patently deficient; or

(ii) The application will be considered deficient under paragraph (a)(2) of this Section, if the Commission determines that it is not patently deficient.

(3) Any application for an original license that is rejected may be submitted if the deficiencies are corrected and if, in the case of a competing application, the resubmittal is timely. The date the rejected application is resubmitted will be considered the new filing date for purposes of determining its timeliness under § 4.36 of this chapter and the disposition of competing applications under § 4.37 of this chapter.

[Order 2002, 68 FR 51121, Aug. 25, 2003; 68 FR 61743, Oct. 30, 2003]

§ 5.21 Additional information.

An applicant may be required to submit any additional information or documents that the Commission considers relevant for an informed decision on the application. The information or documents must take the form, and must be submitted within the time, that the Commission prescribes. An applicant may also be required to provide within a specified time additional copies of the complete application, or any of the additional information or documents that are filed, to the Commission or to any person, agency, Indian tribe or other entity that the Commission specifies. If an applicant fails to provide timely additional information, documents, or copies of submitted materials as required, the Commission may dismiss the application, hold it in abeyance, or take other appropriate action under this chapter or the Federal Power Act.

§ 5.22 Notice of acceptance and ready for environmental analysis.

(a) When the Commission has determined that the application meets the Commission's requirements as specified in §§ 5.18 and 5.19, the approved studies have been completed, any deficiencies in the application have been cured, and no other additional information is needed, it will issue public notice as required in the Federal Power Act:

(1) Accepting the application for filing and specifying the date upon which the application was accepted for filing (which will be the application filing date if the Secretary receives all of the information and documents necessary to conform to the requirements of §§ 5.1 through 5.21, as applicable, within the time frame prescribed in § 5.20 or § 5.21);

(2) Finding that the application is ready for environmental analysis;

(3) Requesting comments, protests, and interventions;

(4) Requesting recommendations, preliminary terms and conditions, and preliminary fishway prescriptions, including all supporting documentation; and

(5) Establishing the date for final amendments to applications for new or subsequent licenses; and

(6) Updating the schedule issued with the tendering notice for processing the application.

(b) If the project affects lands of the United States, the Commission will notify the appropriate Federal office of the application and the specific lands affected, pursuant to Section 24 of the Federal Power Act.

(c) For an application for a license seeking benefits under Section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, for a project that would be located at a new dam or diversion, the Applicant must serve the public notice issued under paragraph (a)(1) of this Section to interested agencies at the time the applicant is notified that the application is accepted for filing.

[Order 2002, 68 FR 51121, Aug. 25, 2003; 68 FR 61743, Oct. 30, 2003]

§ 5.23 Response to notice.

(a) *Comments and reply comments.* Comments, protests, interventions, recommendations, and preliminary terms and conditions or preliminary fishway prescriptions must be filed no later than 60 days after the notice of acceptance and ready for environmental analysis. All reply comments must be filed within 105 days of that notice.

(b) *Water quality certification.* (1) With regard to certification requirements for a license applicant under Section 401(a)(1) of the Federal Water Pollution